

REMARKS/ARGUMENTS

Claims 1, 3-15 and 17-38 are pending in the present application. In the Office Action claims 1, 3-15 and 17-38 were rejected. In response to the Office Action, claims 1 and 18 have been amended and claims 3 and 20 have been cancelled. Applicants respectfully request reconsideration of the amended claims.

As an initial matter, Applicants thank Examiner Woo for the courteous and helpful interview conducted on January 28, 2008. In attendance were Examiner Woo and the undersigned attorney-of-record. During the interview, various claim amendments were discussed.

Claim Rejections - 35 U.S.C. § 102

Kuehn et al.

Claims 1, 3, 8-15, 17-27, 30 and 35-38 were rejected under 35 U.S.C. § 102(e) as being anticipated by Kuehn et al. (U.S. Patent No. 6,165,183). Such rejection is overcome for at least the following reasons.

Claim 1 has been amended to recite in part that extending the at least two distal and at least two proximal elements adjusts a length in each of the elements, the length traversing from the proximal end to the distal end of the element. Support for this amendment may be found *inter alia*, in dependent claim 3 as well as Fig. 17A of the application as filed, therefore no new matter has been added. Kuehn fails to teach or suggest adjusting a length of the element.

Kuehn discloses several embodiments of leaflet grippers and fasteners with spring loaded arms (*e.g.* Figs. 13A-13E, 14A-14D, Fig. 20). While these arms may spring open and therefore extend outwardly, in all of these embodiments, the spring loaded arms are of fixed length. Therefore, because the arms in Kuehn are all fixed length, Kuehn fails to teach or suggest that extending the at least two distal and at least two proximal elements adjusts a length

in each of the elements, the length traversing from the proximal end to the distal end of the element, as now recited by amended claim 1. This was agreed to during the interview.

Claim 18 has been similarly amended as claim 1 and now recites in part the step of adjusting a length of the at least two extendable distal elements and the at least two extendable proximal elements to correspond to a length of the leaflets, wherein the length traverses from the proximal end to the distal end of the element. Thus for at least the same reasons discussed above with respect to claim 1, claim 18 is also distinguished from Kuehn. This was also agreed to during the interview.

Because a single reference fails to teach or suggest each and every element of the claim, anticipation cannot be established under 35 U.S.C. § 102(e). Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 102(e) rejection and allowance of independent claims 1 and 18 and the claims depending therefrom.

Marino et al.

Claims 1, 6 and 7 were rejected under 35 U.S.C. § 102(e) as being anticipated by Marino et al. (U.S. Patent No. 6,206,907). Such rejection is overcome for at least the following reasons.

As discussed above, claim 1 has been amended to recite in part that extending the at least two distal and at least two proximal elements adjusts a length in each of the elements, the length traversing from the proximal end to the distal end of the element. Support for this amendment has been previously discussed. Marino fails to teach or suggest adjusting a length of the element.

Marino discloses an occlusion device with stranded wire support arms for closing various heart defects such as septal defects (*e.g.* Figs. 7 and 8). These arms may spring open and thus extend outwardly, but just as in Kuehn, the arms are of fixed length. Their length cannot be varied. Therefore, because the arms in Marino are all fixed length, Marino fails to teach or suggest that extending the at least two distal and at least two proximal elements adjusts a length in each of the elements, the length traversing from the proximal end to the distal end of the element, as now recited by amended claim 1. This was agreed to during the interview.

Because a single reference fails to teach or suggest each and every element of the claim, anticipation cannot be established under 35 U.S.C. § 102(e). Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 102(e) rejection and allowance of independent claims 1 and the claims depending therefrom.

Simon

Claims 1 and 32-34 were rejected under 35 U.S.C. § 102(b) as being anticipated by Simon (U.S. Patent No. 4,425,908). Such rejection is overcome for at least the following reasons.

As previously discussed, claim 1 has been amended to recite in part that extending the at least two distal and at least two proximal elements adjusts a length in each of the elements, the length traversing from the proximal end to the distal end of the element. Support for this amendment has been previously discussed. Simon fails to teach or suggest increasing a length of the element.

Simon discloses a blood clot filter for insertion into a vein (Abstract). The filter is radially collapsible into a collapsed configuration for insertion into the vessel (Abstract). Upon insertion, the loops of the filter basket on the leading end and the legs of the trailing end automatically expand into a predetermined form which is in contact with the vessel wall (Abstract). Again, the loops and legs of Simon's filter are all of fixed length. They may spring open and extend outwardly, but their length still never changes. Therefore because the filter basket loops and legs are all fixed length, Simon fails to teach or suggest that extending the at least two distal and at least two proximal elements adjusts a length in each of the elements, the length traversing from the proximal end to the distal end of the element, as now recited by amended claim 1. This was agreed to during the interview.

Because a single reference fails to teach or suggest each and every element of the claim, anticipation cannot be established under 35 U.S.C. § 102(e). Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 102(e) rejection and allowance of independent claims 1 and the claims depending therefrom.

Claim Rejections - 35 U.S.C. § 103

Claims 28 and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kuehn. Such rejection is overcome for at least the following reasons.

Claims 28 and 29 include the steps recited in base claim 18. Claim 18 has been amended as discussed above to recite in part the step of adjusting a length of the at least two extendable distal elements and the at least two extendable proximal elements to correspond to a length of the leaflets, wherein the length traverses from the proximal end to the distal end of the element. Support for this amendment has been discussed above.

As discussed above, the arms in Kuehn's device spring open and therefore may extend outwardly, but the spring loaded arms in Kuehn are all of a fixed length. Because the arms are fixed length, Kuehn fails to teach or suggest adjusting a length of the at least two extendable distal elements and the at least two extendable proximal elements to correspond to a length of the leaflets, wherein the length traverses from the proximal end to the distal end of the element, as now included in claims 28 and 29. This was agreed to during the interview.

Because the cited reference fails to teach or suggest each and every step of the claim, *prima facie* obviousness cannot be established under 35 U.S.C. § 103(a). Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 103(a) rejection and allowance of claims 28 and 29.

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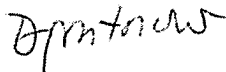
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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

The Examiner is invited to contact the undersigned at 650-326-2400 if a telephone conference would expedite prosecution of this application.

Respectfully submitted,



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